

San Francisco Bay Conservation and Development Commission

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July 25, 2024

Chris Dacumos, Contract Planner
City of Belmont
One Twin Pines Lane, Suite 310
Belmont, CA 94002
Via E-mail: <cdacumos@goodcityco.com>

SUBJECT: Comments on the Notice of Preparation of a Draft Environmental Impact Report for the 1301 Shoreway Project BCDC Inquiry File No. SM.BM.2024.01

Dear Chris Dacumos:

Thank you for the opportunity to comment on the scope of the upcoming Draft Environmental Impact Report (DEIR) for the 1301 Shoreway Project (Project). The Notice of Preparation for the DEIR was dated and received by our office on June 19, 2024.

The San Francisco Bay Conservation and Development Commission (BCDC) is providing the following comments as a responsible agency with discretionary approval power over aspects of the Project, as described below. BCDC will rely on the Final EIR when considering its approvals for the project, and we appreciate this opportunity to comment on information and analyses to be included in the scope of the DEIR. While the description of the project in the NOP is not specific enough for BCDC staff to comment on every potential issue that could be raised with respect to BCDC's laws and policies, staff has prepared the following comments outlining issues under BCDC's jurisdiction that should be addressed. The Commission itself has not reviewed the NOP; the following comments are based on BCDC staff review of the NOP, the McAteer-Petris Act (Title 7.2 of the California Government Code), and the *San Francisco Bay Plan* (Bay Plan) in relation to CEQA requirements for the Project.

San Francisco Bay Conservation and Development Commission

BCDC is a State planning and regulatory agency with permitting authority over San Francisco Bay, the Bay shoreline, and Suisun Marsh, as established in the McAteer-Petris Act and the Suisun Marsh Preservation Act. Per the McAteer-Petris Act, BCDC is responsible for granting or denying permits for any proposed fill; extraction of materials; or substantial changes in use of any water, land, or structure within the Commission's jurisdiction (Government Code Section 66632). Additionally, BCDC establishes land use policies for the Bay as a resource and for development of the Bay and shoreline in the Bay Plan, which provides the basis for the Commission's review and actions on proposed projects.

The Project site is partially located in BCDC's permitting shoreline band jurisdiction, consisting of all territory located between the shoreline of the Bay and 100 feet landward of and parallel with the shoreline (Government Code Section 66610[b]). The Project team has previously

worked with BCDC staff to map the limits of this jurisdictional area. Staff requests that the City include this mapping in the DEIR and pay particular attention to potential impacts that may occur in this area. Areas in the shoreline band jurisdiction include the shoreline, most of the open space and public access amenities, and portions of the surface parking lot located near Belmont Creek.

Environmental Analyses

Below is a list of environmental topics from the NOP and a description of how they overlap with BCDC policy areas that staff will use to evaluate the Project for a BCDC permit. Including these analyses in the DEIR and addressing any related impacts with mitigation measures will support staff in developing relevant conditions and necessary findings to include in the permit. Please see the following referenced legislation and plans from our website:

- [The McAteer-Petris Act](#)
- [The San Francisco Bay Plan](#)

Aesthetics

The Bay Plan includes a policy section on Appearance, Design, and Scenic Views upon which the Commission will base its findings for the Project's visual impacts on the Bay. In defining the significance of the Project's aesthetic impacts, please consider the findings and policies in this section, and acknowledge these policies in the regulatory settings of the analysis. BCDC provides additional guidance on the interpretation of these policies in the [Public Access Design Guidelines for Shoreline Spaces](#), particularly in the sections related to Visual Access, Visual Quality, and Bay Setting. Please consider the Guidelines available on our website in your evaluation of the Project's potential effects on scenic vistas and scenic resources.

Biological Resources

The Bay Plan includes several policy sections related to biological resources, including Fish, Other Aquatic Organisms and Wildlife; Tidal Marshes and Tidal Flats; Subtidal Areas; and Mitigation. Please review the policies and findings in these sections and consider them in your biological resources analysis and in the development of any related mitigation measures and acknowledge them in the regulatory setting for this section. Additionally, please consider the Bay Plan in your analysis of whether the Project would conflict with the provisions of a regional habitat conservation plan.

In defining the study area for the biological resources analysis in the DEIR, please include any areas of the Bay that may be affected by site preparation and construction activities and the ongoing operation of the Project, including those that might be affected by light, sound, debris, runoff, etc. Additionally, please provide a detailed analysis of any potential impacts in and along Belmont Creek.

Cultural/Tribal Cultural Resources

As part of the Bay Plan's policies on Environmental Justice and Social Equity, the Commission is required to consider its guiding principles on environmental justice and social equity in all of its actions and activities. The first of these guiding principles is to "recognize and acknowledge the California Native American communities who first inhabited the Bay Area and their cultural



connection to the natural resources of the region.” Additionally, Public Access Policy No. 5 states that public access should embrace “local multicultural and Indigenous history and presence,” and Recreation Policy No. 4 states that parks should emphasize historical and cultural education and interpretation.

Please ensure that the DEIR includes a description of the Native American history and cultural resources associated with the Project site. In preparing the DEIR, please conduct meaningful outreach towards the tribes associated with this area as part of the AB 52 consultation requirement. Additionally, please ensure that the cultural and tribal cultural resources environmental setting identifies all historically and culturally significant resources at the Project site and at any related sites (if applicable) and note in the analysis whether and how the Project will acknowledge or incorporate information about those resources in its design or programming.

Geology and Soils

The analysis in the DEIR’s geology and soils section relates to issue areas that BCDC will consider in permitting the Project, including the safety and stability of the site in light of the site preparation and filling work required for the Project’s construction; the potential for erosion and implications for the long-term stability, safety, and usability of the proposed public access and open space amenities; and the potential for any erosion to affect biological resources and/or water quality in riparian and tidally influenced habitats present at the site. In your analysis of geology and soils, please pay particular attention to the potential for soil erosion in the shoreline band, as well as any potential hazards related to the fill required to elevate the site and the ability of the underlying soil to support it.

Hazards and Hazardous Materials

The potential for hazardous materials release is relevant to BCDC permitting considerations of whether the Project is consistent with Bay Plan policies on water quality, biological resources, climate change, and environmental justice. As part of its analysis of the potential for the Project to create a contaminant hazard for the public or the environment, please consider the potential for groundwater rise to mobilize below-ground contaminants. Groundwater rise as a function of rising sea levels is an emerging issue of great concern for its potential to bring hazardous materials to the surface, even in areas where capping has already taken place or where shoreline protection is utilized to address above-ground flooding. Such exposure could affect water quality, habitat quality, and the usability of any public access facilities required by BCDC as a condition of permit approval. Therefore, please include a discussion of whether groundwater rise could potentially mobilize below-ground contaminants at the Project site.

Hydrology and Water Quality

The Bay Plan includes policy sections for Water Quality and Climate Change that are relevant to the DEIR hydrology and water quality analysis. Please review these findings and policies and include them in the regulatory settings for this section. As part of the settings and analysis, please clearly identify the water quality standards, plans, and/or discharge requirements applicable to the Project site.

As part of the hydrology analyses, including the analysis of the Project's effect on drainage and whether flood hazards present a risk of releasing pollutants, please include analysis of relevant sea level rise scenarios in accordance with the best available science (currently considered to be the Ocean Protection Council's 2024 Sea Level Rise Guidance). Because sea levels are expected to rise over the life of the Project, the analysis of operational impacts would be incomplete without a consideration of sea level rise scenarios. The DEIR should identify all types of potential flooding related to sea level rise (including groundwater rise) and any proposed adaptation measures, including site elevation or flood protection. Particular attention should be paid to potential future flooding impacts on the proposed public access amenities and storm drainage system.

Please note that as part of the application for the Project, the project proponents are expected to provide a sea level rise risk assessment prepared by a qualified engineer, per Bay Plan Climate Change Policy No. 2. The risk assessment will be expected to include mid- and end-of-century scenarios at the intermediate-high risk level, with the high emissions assumption, using the NAVD 88 datum. Bay Plan policies require that all projects be designed to be resilient to a mid-century sea level rise projection and adaptable to end-of-century if the project is expected to still be in place. In designing any proposed shoreline protection, please note that Bay Plan Shoreline Protection Policy No. 5 requires projects to evaluate the use of natural and nature-based features and incorporate these features to the greatest extent practicable. For the DEIR, any design features necessary to ensure resilience should be included in the Project Description and analyzed throughout the document as part of the project.

Land Use and Planning

The McAteer-Petris Act and the Bay Plan are a State law and a land use plan, respectively, adopted for the purpose of avoiding or mitigating an environmental effect and should be included in the regulatory settings for this section as well as considered in the impact analysis.

Recreation

Per the McAteer-Petris Act, BCDC is tasked with ensuring maximum feasible public access to the Bay. As such, BCDC has permitted several public recreation facilities along the shoreline in the vicinity of the Project site, including contiguous segments of the Belmont Creek Trail and Bay Trail adjacent to the site that connect a series of existing and planned park spaces. As the project will be improving an existing Belmont Creek Trail segment and providing a new recreation destination in this network, please include the adjacent Belmont Creek Trail segments and connected planned and existing recreation areas in the study area for the recreation analysis, identify the service area and service population for these facilities, assess whether the recreational facilities provided are commensurate with the need generated by the Project, and consider whether the Project has the potential to result in the physical deterioration of these facilities.

As part of ensuring maximum feasible public access, Bay Plan Public Access Policy No. 7 requires that public access along the shoreline be permanently guaranteed and should remain viable in the event of future sea level rise or flooding, or that equivalent access consistent with the project be provided nearby. The DEIR analysis should demonstrate that public access and recreational facilities are resilient to projected sea level rise at mid-century, with a comprehensive plan for



adaptation through the end of the century. This plan should include strategies for maintaining accessibility, functionality, and safety of recreational and visitor-serving amenities under various sea level rise scenarios. The DEIR should state whether the adaptation or replacement of the proposed public access would require further construction or expansion of recreational facilities and assess whether that may have an adverse effect on the environment.

Transportation

One of BCDC's key considerations for assessing maximum feasible public access is the convenience and safety of site access where a project connects to the larger transportation network, particularly for members of the public approaching the site via the Belmont Creek Trail or by surface roads. Please review the findings and policies in the Bay Plan's sections on Transportation and Public Access and acknowledge them in the regulatory settings for the transportation analysis. Furthermore, please consider these policies in your analysis of whether the Project would conflict with a policy addressing transit, roadway, bicycle, and pedestrian facilities, and whether the Project would increase transportation hazards, with particular attention paid to the Belmont Creek Trail and routes by which drivers would access the Project's public parking spaces.

Conclusion

We appreciate your attention to the topics discussed above and for the opportunity to make the above comments on the scope of the DEIR. If you have any questions or concerns regarding this matter, please do not hesitate to contact me at pierce.abrahamson@bcdc.ca.gov.

Sincerely,

DocuSigned by:

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PIERCE ABRAHAMSON
Shoreline Development Analyst

cc: State Clearinghouse; <state.clearinghouse@opr.ca.gov>
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